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May 18, 2009
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1100 St. Francis Drive
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**Re: Submission to the Small Business Regulatory Advisory Commission - Proposed
Amendments to Rules for Tax Incentives for Qualifying Generating Facilities**

Dear Ms. Cordova:

In 2009, the New Mexico Legislature amended a statute granting tax credits to certain types of advanced electric generating facilities. NMSA 1978 § 7-9G-2 62-6-28, and other sections (2009). The primary effect of the amendments was to add utility-scale solar photovoltaic and geothermal energy projects to the types of facilities that qualify for the tax credit, and to include several additional categories of taxation against which the credit can be applied. As with the original statute, the Environment Department is to determine whether a facility meets the applicable criteria. The New Mexico Environment Department is proposing to amend the rule governing how to apply for and obtain certification of a facility, to conform with the new amendments.

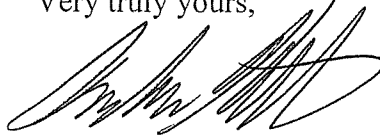
In accordance with the Small Business Regulatory Relief Act, NMED is hereby submitting the proposed rule to the Small Business Regulatory Advisory Commission for its review. The proposed regulation is attached, though there may be changes made prior to the hearing.

It is not expected that the new proposed rule will have any adverse impacts on small businesses. The purpose of the statute and rule is to give tax incentives to businesses, large and small, that meet the criteria established by the Legislature. In addition, the application fee for small businesses is half that of larger businesses.

After considering public comment, the Department will submit a draft rule to the Department Secretary, who will then assign a hearing officer in conformance with 20.1.9 NMAC. The hearing officer will set a hearing date, and the Department will give notice to the public and others. The public will be allowed to attend the hearing and present its views.

If you or the Advisory Commission have any questions, please contact me at (505) 827-2847. If the Commission has any proposed changes, we would appreciate it if the Commission would contact us as soon as possible so that they can be considered prior to hearing.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Andrew P. Knight', with a stylized, flowing script.

Andrew P. Knight
Assistant General Counsel

Enclosure

cc: Rita Bates, Air Quality Bureau (w/o enclosure)